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‘Reputation at risk’: Albanese government’s corruption watchdog pick pulled over party links



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Attorney-General Mark Dreyfus wanted to install a legal figure with Labor links to the second-highest position in the new anti-corruption commission before the committee vetting the appointment balked and helped kill the proposal.

The Albanese government nominated NSW Supreme Court Justice Stephen Rothman to become a deputy [commissioner of the National Anti-Corruption Commission](#) late last year, prompting the Greens to accuse Labor of risking the reputation of the non-political body, which may investigate the government and its political opponents.



The committee confirmed it was “not satisfied” with the information provided by Mark Dreyfus’ department to support the attorney-general’s pick. ALEX ELLINGHAUSEN

Rothman was a Labor candidate for the seat of Wentworth in 1984, contested Labor preselection for the seat of Dobell in 2003, and was a founding member of the International Centre on Trade Union Rights.

A senior legal source, who spoke on the condition of anonymity to frankly discuss the issue, claimed it was inappropriate for Labor to pick Rothman appointed to the court by the NSW Labor government in 2005 given his widely known party and union connections in NSW political and legal circles. The source argued Rothman was a highly qualified jurist but nominating him to the commission to preside over politically sensitive cases was poor judgment on Dreyfus’ part.

Rothman’s nomination ran into trouble when it was examined by the 12 MPs who sit on a powerful parliamentary committee that oversees the anti corruption commission and approves appointments. Labor has more MPs on the committee than other parties.

The committee confirmed it was “not satisfied” with the information provided by Dreyfus’ department to support the attorney general’s pick.

“The committee was not fully confident that all desirable information was gathered by the department in undertaking its assessment,” it said in a document published on January 24, citing important “omissions”. The candidate subsequently withdrew the nomination, the committee said.

Greens senator David Shoebridge, who sits on the committee, addressed the matter in the Senate last week, saying pertinent information about the nominee’s background was either not gathered in the departmental vetting process or knowingly withheld from MPs required to tick off or veto the nomination.

“The [NACC], which we all want to succeed and which must be above politics and must be seen to be irreproachable in its appointments and processes, had its reputation put at risk in this process,” Shoebridge said while noting the nominee was a highly capable figure.

“There is an absolute obligation on the department and on [Dreyfus] to ensure the committee has all the information it needs to make a fully informed decision about something as critical as the appointment of a deputy commissioner.”

Shoebridge said the committee was provided with “sanitised” documents about the candidate rather than the original version provided by the candidate.

It sought further information and a detailed briefing with officials, which Shoebridge said culminated in the committee not wishing “to forward and endorse the nomination from [Dreyfus]”.

There is no suggestion the judge would not have been independent of any influence.

Neither Shoebridge nor the committee named Rothman as the nominee, and multiple MPs on the committee refused to confirm his name when approached by this masthead. One explanation could be that the misuse of sensitive information by public officials could be considered corrupt conduct under the rules of the commission, whose establishment was a core Labor pledge at the last election.

Rothman’s identity was confirmed to this masthead by a senior legal source and subsequently by two sources familiar with the matter who also could not be identified because of its sensitivity.

Rothman’s chambers and the NSW Supreme Court did not respond to questions about this story.

After Rothman withdrew his candidacy, Dreyfus proposed Kylie Kilgour as deputy commissioner. The committee approved the nomination of Kilgour, a deputy commissioner on Victoria’s Independent Broad based Anti Corruption Commission.

A spokesman for Dreyfus said candidates for appointment were initially put to the attorney general by a selection panel following public advertisements before Dreyfus put his choice to the committee for approval.

“The government established a merit based selection process for all NACC appointments,” he said.

“Ms Kylie Kilgour’s appointment as the third substantive deputy commissioner to the [NACC] was unanimously endorsed by the committee.”

Rothman was appointed by Dreyfus in 2022 to [consider highly anticipated religious freedom reforms](#) through the Australian Law Reform Commission.

In a Senate estimates hearing in February last year, Liberal senator Paul Scarr grilled public servants on whether they knew of Rothman’s “long-term interest” in politics and his Labor links before he was appointed to lead the religious freedom inquiry.

Scarr noted Dreyfus had previously disparaged members of the Administrative Appeals Tribunal – which was [abolished due to Coalition government stacking](#) – as “failed Liberal candidates”.

A [Reuters article from 2010](#) stated Rothman was a founding member of the International Centre on Trade Union Rights and advised the Soviet Union on attempts to establish free trade unions, working with Mikhail Gorbachev in the process.

“There is a common thread to all the judge’s activities – his work after university with trade unions, his diverse practice at the Bar and now at the bench as well as his active community engagement,” the article said.

In a [February 2023 article in the *Australian Jewish News*](#), Rothman countered the arguments from both the right and left against the Indigenous Voice to parliament, describing the proposed advisory body as a “moral imperative”.

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